

SPECIAL COUNCIL MEETING

SEPTEMBER 26, 2013

The Special Council Meeting of the Council of the County of Kaua'i was called to order by the Council Chair Jay Furfaro at the Council Chambers, 4396 Rice Street, Room 201, Lihu'e, Kaua'i, on Thursday, September 26, 2013 at 2:05 p.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable Gary L. Hooser
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro

Excused: Honorable Ross Kagawa

APPROVAL OF AGENDA.

Ms. Yukimura moved for approval of the agenda as circulated, seconded by Mr. Rapozo, and carried by a vote of 6:0:1 (Mr. Kagawa was excused).

Chair Furfaro: May I ask that we first read posting "E" for the Executive Session and then I will take public comment. Can I have the County Attorney up, please?

There being no objections, the rules were suspended.

MARC E. GUYOT, Deputy County Attorney: Good afternoon. We are here for ES-678.

EXECUTIVE SESSION:

ES-678 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(2) & (4) and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Council, requests an executive session with the Council, to consider the hire, evaluation, dismissal, or discipline of an officer or employee or of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved, provided that if the individual concerned requests an open meeting, an open meeting shall be held; and to consult with the Council's attorney regarding questions and issues pertaining to the Council's and County's powers, duties, privileges, immunities, and liabilities as it relates to this agenda item, and to deliberate and take such action as deemed appropriate.

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Rapozo moved to convene in Executive Session for ES-678, seconded by Mr. Bynum.

PUBLIC COMMENT.

Pursuant to Council Rule 13(e), members of the public shall be allowed a total of eighteen (18) minutes on a first come, first served basis to speak on any agenda item. Each speaker shall be limited to three (3) minutes at the discretion of the Chair to discuss the agenda item and shall not be allowed additional time to speak during the meeting. This rule is designed to accommodate those who cannot be present throughout the meeting to speak when the agenda items are heard. After the conclusion of the eighteen (18) minutes, other members of the public shall be allowed to speak pursuant to Council Rule 12(e).

There being no objections, the rules were suspended to take public testimony.

JEAN ODO: Please do not use this time as part of my testimony because it is not my testimony yet. I just came off the street because I was informed that this was going to be a meeting concerning Ernie Pasion. This is why I am here to testify. I hope I am in the right place at the right time.

Chair Furfaro: You are in the right place and it is the only item, Jean, that is on the agenda.

Ms. Odo: I just wanted to say that I am speaking on behalf of Ernie. I am a retired school teacher and I know all of you as students before. I just want to say that as you know as students that our focus is to teach and sharpen your knowledge, skills, and our main focus is to teach honesty in the classroom. I know Ernie as a very honest person – very kind, generous, and a man of integrity. It is only because little things that I have heard that he had pointed out when he was asked to do something as Auditor and he does not know that I am speaking about this but he was not pointing fingers at anybody when he pointed out something that was a concern. It is because he wanted to say that this is happening and we need to...I am showing you, I am pointing it out, this is a concern, we need to work out a solution, and move on. That is the kind of person I know Ernie as. I hope he is not going to be punished for his integrity and that you will honor the things that he has come up with because of his integrity. I wish I could say more but...are my three (3) minutes up?

Chair Furfaro: No, you can continue until the bell goes off.

Ms. Odo: Maybe I did make my points well enough. Just to say that do not punish a person who is trying to help. Your focus as being...I know what I wanted to say. Sometimes the connotation of being called a Politician and you know you are Council men and women and you are helping us in the interest of the people of Kaua'i. Ernest is that kind of a person who wants to help. So, do not punish him for that. I am asking that when you vote, if there is any kind of a vote to say, he is the man that should be on board. I really strongly believe that he should be and should remain. Thank you.

Chair Furfaro: Thank you very much.

JOE ROSA: Good afternoon. I am here again to speak on behalf of Mr. Ernie Pasion. Like I mentioned previously before in my other comments that Ernie is doing a job with enthusiasm and with his spirit and of course most of all it took guts to do the work that he is doing. That is where credit is due to something for somebody to have that guts and enthusiasm and done the

six (6) audits that he has already done, but I do not know it is being kept hush-hush from the public. The public deserves that right to know what is going on in our government and the County system. This Executive Session behind closed doors can lead to the fall of democracy because this supposed to be open and if it is private, the private session that is it, but the rest the public knows about it. This has to be something not his job performance, because of the audits that he has done is excellent. It has to do with personalities that were within the Department and the dismissal of a worker. People know about it, so why you try to keep it hush-hush? In there is no dismissal or anything without just cause. I will leave you with that two words again – just cause. Just cause means what it says. I do not know how the Attorney might interpret “just cause,” but in the labor union it was something that it has to be job related and job orientated that the person he or she could not do the job the way it is supposed to be done. It has not have to do with personalities. Personalities should be ironed out and this is something that I see similar to what happened within the Police Department – personalities. Do not take it out on a person. It should be done internally by the...even this Council could have done something. Remember, the public elected you people to serve the County of Kaua‘i. This is something to do that it is going to be the evaluation of the work he had done, well, I think he did an excellent job on the audits that he has done so far. It cannot be anything to do with other charges.

Chair Furfaro:

Joe that is your three (3) minutes.

Mr. Rosa: I leave you with these two (2) words like I did with the Police Commissioners at the meeting I testified on behalf of the Police Chief – “just cause” and it has to be of a legitimate reason of him not able to do his work and do his audits which I think he did a good job. Let your cautious be your guide. Remember we the people of Kaua‘i elected you people to serve. I think he did a good job. Let the public know what is going on and leave personalities out of this decision on Mr. Pasion’s job. Thank you.

Chair Furfaro:
speak? No?

Is there anyone else that would like to

ALFRED LAURETA: Good afternoon. I am somewhat at a lost as to why I am here. I found out late this afternoon that there was this meeting and that they told me that they were thinking of firing Ernie. I asked, “what for?” They said that is why Council is having a hearing. Frankly, I do not know why but in my ignorance I hope I can find out later what it is that he has done that has caused you to even think of the possibility of firing him. You were the ones who confirmed him. Most of you have worked with Ernie when he was a Deputy Clerk here. You know what kind of a person he is. You know him personally. I have known him personally and as far as I can see even though in my social activities I do mingle with him now and then, I have not seen any difference in Ernie – the same Ernie that I knew back when you confirmed him for the position. That is the problem with...and this is your right, you are going to discuss his performance I am sure in Executive Session and because you are in Executive Session that is your right to do so. I think it is right. Personally any time you are going to discuss the performance of any employee or person that belongs in Executive Session. I do not fault you for that, but I do hope that in your Executive Session you do give him a fair opportunity to present his side and report on any accusations that maybe against him. All I know is what I have read in the paper. Every audit he seemingly have performed for you has been...people say it is great and I am not aware of any conduct on his part outside of the performance of his job that merits his being criticized for being

unprofessional or anything like that. As far as I can see he has been professional and of what I heard he has done a professional job. Because of the fact that his professional job has perhaps revealed to you things that are not necessarily going right in the operation of the County, that is what he has been hired to do to tell you this is wrong, somebody is doing something wrong and I am letting you know this is, and this is the fact. Then the remedy remains with you. The reason why you have an Auditor is for that Auditor to tell you what the facts are that are going on within the County in its operations. I just hope that what he may have revealed in his audit reports does not necessarily mean – hey, this guy is looking a little too much under the table when he should not. Well, that is what he is supposed to do. He is supposed to find what is going on under the table, over the table, whatever, and let you know. Whether it is right or wrong it is what that is for you to decide. I hope he has done the job that you expected him to do and the reasons if any for trying to get rid of him is because of a personal reason, people do not like him – you know Ernie does not speak like me but that does not make him any less efficient, less honest, and less able to do a good job as the Auditor. Thank you very much.

Chair Furfaro: JoAnn, we are in Rule 13(e) which does not allow us any cross questions. Judge, thank you for your testimony. Is there anyone else that would like to speak?

There being no objections, the meeting was called back to order, and proceeded as follows:

Ms. Yukimura: I just want to say that I really appreciate Judge Laureta's affirmation of the process that government goes through when there is a personnel matter involved. It is a closed session and our last session was a closed session for the protection of the privacy of the Auditor. For the record, he was given a choice of having an open session but declined.

The motion to convene in Executive Session for ES-653, ES-654, and ES-655 was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Bynum, Hooser, Nakamura,	
	Rapozo, Yukimura, Furfaro	TOTAL – 6,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Kagawa	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

ADJOURNMENT.

There being no further business, the Special Council Meeting adjourned at 2:22 p.m.

Respectfully submitted,


JADE K. FOUNTAIN-TANIGAWA
Deputy County Clerk

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